

FILED

12/09/2016

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: AF 09-0688

ORIGINAL

Honorable Members of the Court,

We are writing to oppose  
the Rule 8.4(g) of the Professional  
Rules of Conduct for MT. Attorneys.

Our freedom of speech is disappearing.

Sincerely,

Ruth Salvesson

Clint Salvesson

Greg Salvesson

ERIC WITMER

Delsi Witmer

Aimee Salvesson

FILED

DEC 09 2016

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

6078 Kid Curry Rd  
Malta, MT  
59538

# ORIGINAL

December 9, 2016

Honorable Members of the Court,

You have called for public comment of the proposed new Rule 8.4(g) of the Professional Rules of Conduct for Montana Attorneys. As a concerned citizen, I hereby submit my request that you reject this rule for the following reasons.

Please consider this as a religious freedom and freedom of speech to be able to defend the religious freedom of everyone in the legal profession. I feel this proposed rule if adopted is government overreach.

Sincerely,

*Carol L. Smith*  
Carol L. Smith  
122 S 9<sup>th</sup> St West  
Malta, MT. 59538  
[lovely@ttc-cmc.net](mailto:lovely@ttc-cmc.net)  
406-654-1488

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

# ORIGINAL

Gallagher, Darlene

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**From:** mark and nickie fee <mandnfee@hotmail.com>  
**Sent:** Friday, December 9, 2016 1:20 PM  
**To:** Court, SCclerk  
**Subject:** from Mark Fee, film historian. Objection to American Bar Association legal suggestion

*Dear Sirs/Madam*

*Suggestion of Centre for Professional Responsibility Implementation Committee of American Bar Association, for adopting new paragraph to Montana Rules of Professional Conduct Rule 8.4 is seriously flawed and discriminatory. It raises ethical questions and particularly harmful to Christian lawyers, other faiths. What would happen if Buddhist lawyer believes in marriage between one man and woman? What about an atheist?*

*New paragraph is written in such a way that critical thinking in court would be barred. It is a dangerous and poorly written recommendation.*

*Please do not accept Centre's suggestion. It will harm thousands of citizens of Montana.*

*Respectfully*

*Mark Fee  
Northwest columnist*

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

ORIGINAL

7111 Antelope Way  
Helena, MT 59602  
Dec. 8, 2016

FILED

Clerk of the MT Supreme Court  
P. O. Box 203003  
Helena, MT 59620-3003

DEC 09 2016

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Honorable Members of the MT Supreme Court:

RE: Professional Rules of Conduct, Rule 8.4 (g)

You have called for public comment in regard to the proposed new Rule 8.4 (g) of the Professional Rule of Conduct for MT attorneys. As a concerned citizen, I hereby submit my request that you reject the rule for the following reasons.

This Rule 8.4 (g) is a direct confrontation to our Constitution, which grants Freedom of Religion and Freedom of Speech.

Please give high regard to the freedoms listed in our Constitution and Declaration of Independence.

Thank you for bringing justice to our State, and your hard work.

Sincerely,  
Charlene F. Howard  
and  
DC Howard

**ORIGINAL**

715 Swifts Highway | Jefferson City, MO 65109  
Phone 573.659.4454 | Fax 573.659.4460 | bflawfirm.com

By UPS Overnight Delivery

December 8, 2016

Montana Supreme Court  
Justice Building  
215 N. Sanders  
P.O. Box 203001  
Helena, Montana 59620-3001

State Bar of Montana  
7 W. 6th Avenue, Suite 2B  
P.O. Box 577  
Helena, MT 59624

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

**Certification under Rule 8.5 of the Montana Rules of Professional Conduct**

To Whom This May Concern:

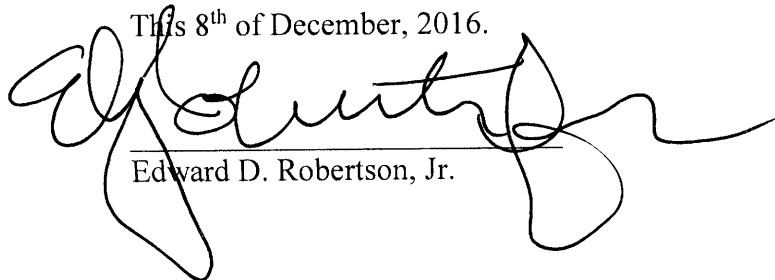
My name is Edward D. Robertson, Jr. I'm an attorney in Jefferson City, Missouri. I've been admitted and licensed in good standing to practice law in the State of Missouri since 1978.

I represent a party to an action filed in the District Court of Montana. The action has been sealed by Order of Judge Molloy.

In compliance with the Montana Rules of Professional Conduct, Rule 8.5, I certify under oath that I will be bound by the Montana Rules of Professional Conduct in my practice of law in this State and will be subject to the disciplinary authority of this State.

I certify under penalty of perjury that the foregoing is true and correct.

This 8<sup>th</sup> of December, 2016.

  
Edward D. Robertson, Jr.

# ORIGINAL

Renk, Rex

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**From:** Richard Magoffin <rich1\_magoffin@hotmail.com>  
**Sent:** Friday, December 9, 2016 11:36 AM  
**To:** Court, SCclerk  
**Subject:** Rule 8.4 of the rules of conduct

You cannot grant the rights of one by denying the rights of another. First Amendment rights sacrificed for discrimination based on another's sexual orientation or similar belief is violation of the freedom of religion.

Sincerely,

Richard Magoffin

[rich\\_magoffin@hotmail.com](mailto:rich_magoffin@hotmail.com)

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

# ORIGINAL

Anderson, Diane

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**From:** Kim White <kim@brickleyinsurance.com>  
**Sent:** Friday, December 9, 2016 10:54 AM  
**To:** Court, SCclerk  
**Subject:** rule 8.4

Dear Justices,

I am writing today to express my grave concern and opposition to the proposed rule 8.4. I see this rule as a violation of our constitution right to the freedom of speech and will violate the free exercise of religion. I urge you to reject this rule.

Sincerely,

Kim White  
1568 Foothill Dr  
Billings MT 59105

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

**ORIGINAL**

Clerk of Montana Supreme Court  
PO Box 203003  
Helena, MT 59620-3003

**FILED**

DEC 09 2016

Re: Professional Rules of Conduct-Rule 8.4

Honorable Members of the Court,

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

You have called for public comment on the proposed new Rule 8.4(g) of the Professional Rules of Conduct for Montana Attorneys with regard to AF 09-0688 and as Senior Pastor of Canyon Ferry Road Baptist Church, I am requesting that you decline this rule for the following reasons.

**1. A Threat to the Freedom of Religion**

By adopting this rule, Montana lawyers could face disciplinary actions for being part of a religious group that does not practice nor believe that the law should meet "a need for a cultural shift in understanding." The First Amendment incorporates the idea that religious institutions have been given the right to implement the understandings of society and gauge the moral standard upon which societies are built. Adopting this rule would impede the belief, practice, and lifestyle of the attorney that opposes that government is responsible for making our society better. Lumping any speech that goes against the status quo, politician, or customer as hate or discriminatory speech has the potential to hinder the truth, the whole truth, and nothing but the truth, simply based on the concept that truth can, is, and will continue to be classified as hate and discriminatory speech.

**2. An eraser of Free Speech**

Montana lawyers may find themselves silenced through the vague terminology of "verbal conduct" both inside and outside of the court rooms. Discipline could follow under the banner of social activities that are "in connection with the practice of law." These social activities could include; churches, non-profit organizations, for-profit organizations, or any organization that deals with the social realms of a community. Therefore, the potential of silencing all is found within this rule, since all are supposed to abide by the law. The erosions of freedom begin from within, under the surface, and then spread throughout. Removing free speech from the individuals who are to defend free speech themselves is the beginning of the end of free speech. Where and when does the erosion stop? If free speech is removed from the attorney it will eventually be removed from the populous as a whole.

**3. A Threat to Identity**

The attorney is first and foremost an American citizen; he or she is identified as a citizen with all the rights thereof. To remove his or her right to speak, practice religion, assemble, petition or report is removing the identity that he or she has been given through his or hers inalienable and constitutional rights, the very rights that he or she is defending. In addition, favored classes will receive support of the attorneys, while less favored classes will suffer. Each attorney must be given the opportunity to identify with his or her client.



**4. A Contradiction**

The final sentence contradicts the very rule that it is trying to enforce: "This paragraph does not preclude legitimate advice or advocacy with these rules." However, the rule is claiming that punishment and discipline can be rendered based on verbal or discriminatory language. This would imply that punishment could be rendered for advice or advocacy, especially in areas of opinionated discrepancies. The lawyer would simply be unable to advise, advocate, or participate in any social gathering, fearing that he or she would be discriminating against one opinion over the other. What position could the attorney take? To be for something is to be against something else: a contradiction within the law promotes anarchy from the law.

On the foundations of the above reasoning, I urge the court not to implement the rule change of the Professional Rules of Conduct.

Sincerely,

Pastor Chad Hesler  
Canyon Ferry Road Baptist Church

# ORIGINAL

Anderson, Diane

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**From:** c\_lybeck@yahoo.com  
**Sent:** Friday, December 9, 2016 3:08 PM  
**To:** Court, SCclerk  
**Subject:** Rule change 8.4

Honorable Members of the Court,

To the men and women who have been given the opportunity to sit in one of our highest offices and judge with integrity and righteousness.

I am writing to express my opposition to proposed rule change 8.4(g). I humbly beseech you to consider what the Lord Almighty would say that you are willing to give this rule a place. You have a place to sit in the gate. Be careful what you let in. I pray the Lord give you strength and courage to make a stand and reject the proposed rule 8.4 change.

Sincerely,

Clifford Lybeck  
865 North Joplin Road  
Joplin, Montana 59531  
[c\\_lybeck@yahoo.com](mailto:c_lybeck@yahoo.com)

Sent from my iPad

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

# ORIGINAL

Anderson, Diane

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**From:** c\_lybeck@yahoo.com  
**Sent:** Friday, December 9, 2016 3:26 PM  
**To:** Court, SCclerk  
**Subject:** Rule 8.4 change

Honorable Members of the Montana Supreme Court,

As a concerned citizen of our great nation I'm writing to you today very concerned about our rights of freedom of speech and press. You are the ones who preserve that right for all of us in this land. Even if you do not agree with a belief, does that mean we can not express that belief. Isn't speaking what I believe freedom of speech? This rule is a beginning of censorship, first of lawyers and then of the people.

Where will it stop?

Please reject the proposed rule change 8.4.

Thank you for your time.

Sincerely,

Delia Lybeck  
865 North Joplin Road  
Joplin, Montana 59531  
[c\\_lybeck@yahoo.com](mailto:c_lybeck@yahoo.com)

Sent from my iPad

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Clerk of Montana Supreme Court  
PO Box 203003  
Helena, MT 59620-3003

**ORIGINAL**

Re: Professional Rules of Conduct- Rule 8.4

Honorable Members of the Court,

12/5/16

I am writing to oppose the adoption of the Professional Rules of Conduct found in Rule 8.4. I believe that adopting this rule will have an effect of discrimination to those who are not listed as a protected class of citizens, have conflicting consequences and erode the practice of law in the state of Montana. The rule is ambiguous in certain places and will lead to confusion. Ignoring the 450 letters most of which were in opposition when the rule was proposed at the national ABA bothers me as well.

Some of my concerns:

- It only allows lawyers to be able to express one viewpoint thereby forming a sort of "reverse discrimination" against those who are not in agreement with that viewpoint. Perhaps the most troubling is the likelihood that the new rule will be used to chill lawyers' expression of opposing views regarding political, social, and religious viewpoints.
- It also appears to change the freedom of a lawyer to be able to refuse to accept a client in which he has a fundamental conscience problem.
- It seems to allow a lawyer's freedom of speech and conduct to be very limited especially if he is an advisor to a religious or fraternal group whose views would differ with the "supposed" protected classes. This work is often done pro bono or at a reduced fee for these types of groups. Where is the freedom of speech for the lawyer? And who then can represent these types of groups if the advising lawyer is "hobbled" to be able to give them counsel.
- It appears that there isn't a need for this rule which was brought up by the ABA's own Standing Committee on Professional Discipline when they questioned whether there was a demonstrated need for the rule change and raising concerns about its enforceability.
- Many states black-letter laws are narrower in significant ways than model rules 8.4(g)'s expansive scope. Many states' black-letter rules apply only to *unlawful discrimination* and require that another tribunal find that an attorney has engaged in unlawful discrimination before the disciplinary process can be instigated.
- Finally, the stated purpose of this rule was to a need for a cultural shift in understanding the inherent integrity of people..." In other words, the rule change was not proposed for the sake of protecting clients, for protecting attorneys, or for protecting the court. It was proposed because the American Bar Association felt the need to promote a cultural shift.

There is so much more that could be written but these listed concerns are strong enough that I believe that this Rules of Conduct- Rule 8.4 should not be adopted.

Sincerely,

Willeen A Erpenbach

1715 St Andrew Dr

Billings MT 59105

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

# ORIGINAL

Anderson, Diane

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**From:** CenturyLink Customer <fastkittens@q.com>  
**Sent:** Friday, December 9, 2016 3:46 PM  
**To:** Court, SCclerk  
**Subject:** Professional Rules of Conduct-Rule 8.4

Honorable Members of the Supreme Court

I understand you are accepting public comment on Friday, 9 December 2016, on the proposed Professional Rules of Conduct - Rule 8.4.

I am concerned that this potential Professional Rule of Conduct will lead to an erosion of freedom of speech. The constrictions placed could be detrimental to a lawyers ability to act as the lawyer sees fit for his/her client/s.

Montana attorneys may be open to possible discipline through association with religious organizations not necessarily following politically correct agendas.

While I endorse fair treatment of fringe and mainstream groups and classifications, this kind of restriction on lawyers could possibly limit their free speech based on what is politically correct which leads to a wide degree of potential limitations that have threats of punishment if violated. Where would the politically correct line be drawn? It seems there is no limitation to the possible limitations on lawyers. These limitations could severely damage representation and the possibility of representation for potential clients - threatening the rule of Law.

I respectfully encourage the Court not to adopt this proposed rule change.

Respectfully:

Corrine Schauer  
2288 Green Briar Rd  
Billings, MT

**FILED**

DEC 09 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

**ORIGINAL**

Re: Professional Rules of Conduct, Rule 8.4(g)

Honorable Members of the Court,

You have called for public comment of the proposed new Rule 8.4(g) of the Professional Rules of Conduct for Montana Attorneys. As a concerned citizen and business owner, I hereby submit my request that you reject this rule for the following reasons.

Every person, regardless of profession, should have the right to say what they want because we have freedom of speech in the United States.

Every person, regardless of profession, should have the right to think what they want and how they want because of the religious freedom that we enjoy in the United States.

Every person, regardless of profession, should be free of government overreach in their professions. We do not need the government to tell us what we can believe or think, and what we can't believe or think. If you go that far you have changed how this country has functioned for over 200 years, and you are changing the fundamental rights of its citizens

Signed,

*Amy J. Toelke*

RONAN, MT 59864

406-676-5150

**FILED**

DEC 09 2016

*Ed Smith*

CLERK OF THE SUPREME COURT  
STATE OF MONTANA

# ORIGINAL

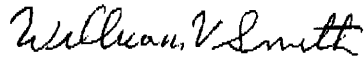
December 9, 2016

Honorable Members of the Court,

Montana's Supreme Court is considering changing the rules for Christian lawyers. Under the proposed new rule, a lawyer could lose his job for publicly saying, "Marriage is between one man and one woman." This is considering adopting a change to their "rules of Professional Conduct," known as "Rule 8.5(g), saying, if a lawyer says anything that might be deemed "discriminatory" on the basis of "sexual orientation" or "gender identity," that lawyer could be disbarred – lose his license to practice law.

As a concerned citizen of Montana, I hereby submit my request that you reject this rule as I feel it is taking away religious freedom, freedom of speech which is allowed for in our Constitution, and also would be an overreach of government power.

Sincerely,



William V. Smith

406-654-2378

## FILED

DEC 09 2016

*Ed Smith*

CLERK OF THE SUPREME COURT  
STATE OF MONTANA